

UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

Memorandum

TO : MR. O. T. JACOBSON *ay*

DATE: 6/26/73

FROM : INSPECTOR JAMES JOSEPH O'CONNOR *for*

SUBJECT: WATERGATE

ANALYSIS OF POSSIBLE INVOLVEMENT BY

L. PATRICK GRAY*Cs1*
DC
James Walter Jno Corle~~ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE.~~

This is in response to memorandum W. M. Felt to Mr. Walters dated 5/22/73 captioned "Watergate" (attached).

Set forth below are specific publicized allegations concerning the activities of former Acting Director Gray from May, 1972, to the present, and individual responses and analyses thereto from our files. This is a separate project by the Inspection Division as part of an on-going investigation into various aspects of Watergate, Ellsberg, and related matters. Mr. Gray's confirmation testimony is being reviewed separately against material in the Watergate file by the General Investigative Division. WFO has advised the Grand Jury inquiry into the involvement of Gray and others into the alleged destruction of material has been completed; however, we are not privy to that testimony.

This project has been coordinated with personnel in the General Investigative Division, Press Services Office, and Office of Legal Counsel. *7/1/80*

ALLEGATION:

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DATE OF REVIEW *6/26/73*

Time Magazine, issue of 7/3/72, page 11, indicates that Gray denied he had met with former Attorney General John Mitchell over the weekend of 6/16-19/72 at Newport Beach, California. The article relates "The first suspicion arose when Mitchell and Acting FBI Director L. Patrick Gray were both at the Newport Inn in California's Newport Beach the day after the arrests. But both denied seeing the other man there. 'The hotel is a big place, says Gray, I was in room 331, the Mitchells were in a villa. One of my Agents told me the Mitchells were there."

SI:11 REC-53 REC-102 139-4089-2443
FACTS: Inquiry at our Los Angeles Office disclosed the following composite summary of activities of Gray and Mitchell: Both arrived at the Los Angeles International Airport 6/16/72 (Friday) approximately 6 hours apart. Gray stayed at the Beverly Wilshire Hotel and Mitchell at the Beverly Hills Hotel (approximately 1 1/2 miles away). On 6/16/72 Gray visited the FBI Office, had a press conference and a dinner-speech at his hotel while Mitchell's activities and/or itinerary were not known to the Los Angeles FBI. On Saturday, 6/17/72, Gray departed his hotel

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for Santa Ana and arrived at the Newporter Inn, Newport Beach, for lunch and at approximately 2:30 PM cancelled original plans to go to Palm Springs and arrangements were made for overnight stay at Newporter Inn. Mitchell's only known itinerary on 6/17/72 included Republican meeting with Governor Reagan, press conference and ultimate return to his hotel after 2 PM. On Sunday, 6/18/72, Mitchell arrived at Newporter Inn at approximately 3 PM and an unidentified member of Mitchell's party inquired of our Agents where Gray was. When asked why, the individual responded that inquiry was made for "Mr. Mitchell." This individual was directed to the pool area of the Newporter Inn where Gray and his wife were sunning. No information was developed regarding an observed contact between Gray and Mitchell at that time or any previous time during their respective stays in the Los Angeles area.

At approximately 5 PM, 6/18/72, Gray departed the Newporter Inn for Palm Springs and Mitchell remained at the Inn overnight. Gray then departed Palm Springs at 11:50 AM, 6/19/72, while Mitchell departed the same date from Los Angeles at approximately 10:15 AM.

It is noted that former SAC Wesley G. Grapp (now retired) declined to be interviewed on advice of counsel. Since he was with Gray, it is possible that he was the individual who informed Gray that Mitchell was expected at the Newporter Inn.

SA Angelo Lano, WFO, advised Frederick LaRue, Committee to Re-elect the President (CRP), advised he did meet with Gray at the Newporter Inn, Newport Beach, California, during the late afternoon of 6/18/72.

Review of pertinent files failed to indicate any additional information alluding to the possibility that Gray met with Mitchell at this particular time.

ALLEGATION:

The Washington Capital News Service for October 25, 1972, reported under a Tampa, Florida, by-line that Gray on October 24, 1972, denied reports that he had warned President Nixon that there were direct links to the White House in the Watergate bugging case. It was reported that Gray told newsmen he had made "no recommendations to the President or to Dean that they do anything with regard to that particular investigation." Gray was told Daniel Schorr (CBS newsman) had said that Gray warned Nixon that the FBI had established more serious direct links to the White House in the Watergate investigation. "That is false" said Gray.

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FACTS: Review of the files failed to disclose confirmation as of 10/25/72 that Gray had definitely indicated to the President of serious implications involving the White House in the investigation to date. The files show in a memorandum dated 6/22/72 (a running log begun on that date) prepared by former Assistant Director Charles W. Bates, that on 7/3/72 Bates had a conversation with Gray and SAC Robert G. Kunkel in which Gray commented he did not feel John Dean or Charles Colson were involved in any way in the Watergate case but he had the feeling that John Ehrlichman "was caught up in something." Later, during the Summer of 1972, on an unrecalled date, W. Mark Felt, former Acting Associate Director, stated Gray advised him that in Gray's opinion there were possibly higher-ups involved in the Watergate investigation. Specifically, however, the files do not disclose Gray had as of 10/25/72 "suspicions" concerning ultimate responsibility for Watergate that he expressed or indicated in writing at any time thereafter. The first known reporting of concern that higher-ups in the White House were involved and a subsequent notification of the President was set forth in Gray's testimony of 5/24/73 as set forth below.

The New York Times for 5/25/73, page 17, discloses Gray in testimony before the Senate Appropriations Subcommittee on 5/24/73 reported he had warned President Nixon on July 6, 1972, that "people on your staff are trying to mortally wound you" by hampering the FBI investigation into Watergate. His testimony as recounted by Senator John L. McClellan of Arkansas, related to a conversation that Gray had with the President after Nixon had called him to congratulate the Bureau on a successful handling of an airline hijacking and Gray reportedly warned Nixon of his concern. Mr. Gray quoted the President as saying to him, "Continue to conduct your aggressive and thorough investigation."

ALLEGATION:

Time Magazine, issue of 11/6/72, page 48, reports that at the request of the President, Gray forwarded a teletype to 21 field offices in 14 states requesting law and order material for use in President Nixon's campaign.

FACTS: This action attributed to Gray is inaccurate. Files show that he was out of town on September 8, 1972, when the White House memorandum requesting criminal justice information for use in the President's campaign was forwarded the Bureau through the office of the Deputy Attorney General. The Deputy Attorney General forwarded it to the Acting Director asking for a response "as quickly as possible." Gray's Executive Assistant routed it to Crime Research Division for

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handling and a teletype was sent requesting a reply by 9/11/72. Gray's first knowledge of this matter, according to files, was on 9/12/72 and he has indicated that this was an error in judgment in transmitting the White House request to the various FBI field offices.

A review of our files does not disclose Gray in writing ever indicated an error in judgment had been committed in transmitting the White House request to the field. However, it was the recollection of the Press Services Office that Gray later had made comments in public that although the error was one charged to a subordinate, it was his overall responsibility as head of the FBI. Gray took no corrective action at the time of this incident. The material was correlated and placed in form suitable for dissemination on 9/11/72 by the former Crime Research Division and forwarded by cover memorandum the same day to the Deputy Attorney General. It is not known from review of our files if and when the material was sent to the White House. Gray on 9/8/72 was in Butte, Montana, for a speech and office visit and did not return to his office until the afternoon of 9/12/72. At that time the material had already been dispatched to the Department. Gray did not approve in writing the transmission to the Department and ultimately to the White House, if that is the case, nor do the files show he orally approved of the handling of this material in that fashion.

ALLEGATION:

The Washington Post of 1/18/73, page A-8, points out that certain telephone numbers had been discovered in an address book belonging to Eugenio R. Martinez, Watergate defendant, one of which contains an entry "Fernando ~~Madrigal, 1202 Northwest 31st Avenue, Fountainbleau Hotel, 649-1007.~~" Madrigal, when interviewed by Post reporters, alleged he has never been contacted or interviewed by the FBI.

Miami, FLA

FACTS: Upon publication of the Washington Post article Miami was requested to furnish FBIHQ with the facts concerning the Madrigal situation referred to above. Miami teletype 1/18/73 discloses all Miami area numbers from the Martinez address book had been identified as to subscribers. When determined to be an individual, as contrasted to a hotel or business, the name was searched through Miami indices and those individuals were considered for interview.

During the Miami Office review, Miami identified aliases used by 6 of the 7 subjects in the Watergate case and located a phone number at the White House used by Hunt and numbers at CRP used by Liddy. The Martinez address book was reviewed and evaluated by 5 Miami Agents assigned exclusively to Cuban matters and CIA liaison who all have a broad

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knowledge and insight into the Latin community. This book and the numbers contained therein were discussed in several daily conferences held with the complete Squad #4 in Miami consisting of 14 Agents for benefit of their investigative knowledge. Targets for interview were logically selected by Supervisor Robert L. Wilson, Miami Office, who had the benefit of thinking and experience of the above 19 Agents. It was noted at the time of review that many individuals listed in the Martinez telephone book had previously been interviewed and many others were known to both Agents and sources of the Miami Division. Based upon the above review and evaluation, logical subjects for interview were selected and apparently Madrigal was not so considered. He was not interviewed subsequent to the above inquiry and no further consideration was made to interview him after the Washington Post article appeared.

ALLEGATION: (Donald H. Segretti)

The New York Times issue of 2/6/73, page 35, claimed "It also has been reliably reported that the FBI under Mr. Gray made no real investigation of the political espionage and sabotage activities allegedly planned last year by Donald H. Segretti."

The Evening Star issue of 2/12/73, page A-2, indicates the Justice Department has begun an investigation of Segretti for possible violation of printing or distributing unsigned or falsely signed political literature.

FACTS: Files show based upon reports on 10/10/72 that Segretti had apparently tried to hire three lawyers to handle some kind of espionage, sabotage, or harassment of the Democrats, Assistant Attorney General Henry Petersen, Criminal Division, Department of Justice, was contacted on 10/17/72. As of that day, Petersen had personally been furnished 87 reports and other communications. He advised he was aware of the Bureau's investigation to date of Segretti including allegations of Segretti's political harassment activities and attempts to recruit personnel to assist him. Mr. Petersen said at the time he did not believe Segretti's activities were in violation of a Federal Statute and he could see no basis for requesting any additional investigation of Segretti by the FBI at that time. However, in an unrelated matter on October 25, 1972, the Department requested the Bureau to initiate an Election Law investigation in an Unknown Subject case involving scurrilous attacks against Senators Humphrey and Jackson. The investigation later indicated Segretti was involved and the Bureau's findings were presented to a Federal Grand Jury in Orlando, Florida, which returned indictments against Segretti on 5/4/73.

Currently there is an extensive investigation involving Segretti's activities being conducted upon a specific request from Mr. Cox.

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A more recent Order, Attorney General Order No. 501-73, dated January 18, 1973, provides that no employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department without prior approval of the appropriate Department official or the Attorney General. Where the information requested concerns a matter within the "cognizance" of a division of the Department, the Assistant Attorney General in charge of that division must make the determination whether the file may be disclosed. If disclosure is denied, the final determination is made by the Attorney General.

Therefore, if the disclosure of the file to the Committee is viewed as a voluntary offer by Mr. Gray, then such disclosure required prior approval of the Attorney General pursuant to Department Order 3464. If that disclosure is considered to have been the result of a request or demand of the Committee such disclosure would have required the prior approval of the Assistant Attorney General, Criminal Division, and/or the Attorney General himself, pursuant to Attorney General Order No. 501-73.

The act of disclosing the file itself does not appear to constitute a violation of the law but it may have constituted a breach of administrative regulations if the disclosure was made without prior authorization of the appropriate official. No determination can be made as to whether there was in fact a breach of administrative regulations without factual information from Mr. Gray and the other Department officials who may have been involved. As I view the regulations, they do not require any written record be made of the approval. It would have been enough if Mr. Gray had discussed this matter with the appropriate Department official and secured oral approval."

ACTION:

None for information.

lemp *60* *RSG*
WGC *JT* *QH*

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FACTS: This implication is not true. Files show Special Agents Charles W. Bates, Robert G. Kunkel, and Charles Bolz are no longer assigned at FBIHQ.

Mr. Bates, by letter 10/3/72, addressed to Gray, expressed his personal request to go to San Francisco as SAC. He stated he was not unhappy with his assignment as Assistant Director but felt he could make a more substantial contribution to the FBI in the field. He is currently SAC at San Francisco.

Mr. Kunkel, by letter 9/29/72, was transferred from WFO to St. Louis as SAC at no change in grade or salary.

[redacted] This incident and the action against Mr. Kunkel had absolutely no connection whatsoever with Watergate.

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Mr. Bolz by letter 12/6/72 to Gray stated his responsibilities to his family require he remain in the Washington area and he stated he is aware of his obligation to the Bureau to be available for all assignments. Therefore, in deference to his family he was resigning to take another position. His resignation was accepted and he is now with the Department of Housing and Urban Development.

ALLEGATION:

The Washington Post Times Herald of April 27, 1973, page A-1, contained an article captioned "Gray Destroyed Hunt's Kennedy File After Parlay With Ehrlichman, Dean," which reports Gray was told by Ehrlichman and Dean that the documents were related to national security matters. Gray said he never examined the papers and learned recently what the documents actually were when he was questioned by Assistant Attorney General Petersen on April 16, 1973.

The May 7, 1973, issue of Time Magazine, page 18, disclosed Gray had confided to "friends" that he planned to inform the Federal Grand Jury in Washington of the circumstances concerning his handling of two files furnished him by John Dean, which contained certain papers belonging to E. Howard Hunt.

On 5/12/73 the issue of the Sunday News (New York), page 2, stated Gray on 5/10/73 reportedly informed the Senate Watergate Committee that on 6/28/72 "he was handed two file holders by former White House Counsel John W. Dean, III, in Ehrlichman's office and was told 'these should never see the light of day.' Gray subsequently learned that the files were taken from Hunt's White House safe.... He did not burn the files several days after the June 28 meeting, as he had earlier told Senator Lowell P. Weicker (Republican - Connecticut), but instead took them to his home in Connecticut and kept them hidden there about 6 months. Gray still insisted...

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he never looked at the classified documents given him by Dean. He said he burned them 'during the Christmas holidays' in the incinerator at his Connecticut home."

FACTS: With regard to efforts by the FBI to determine the full facts and circumstances concerning the handling of certain property furnished Gray by John Dean and subsequently destroyed by Gray, a request was sent to the Criminal Division of the Department of Justice on May 4, 1973. Specific approval was requested to institute the following investigation by the FBI:

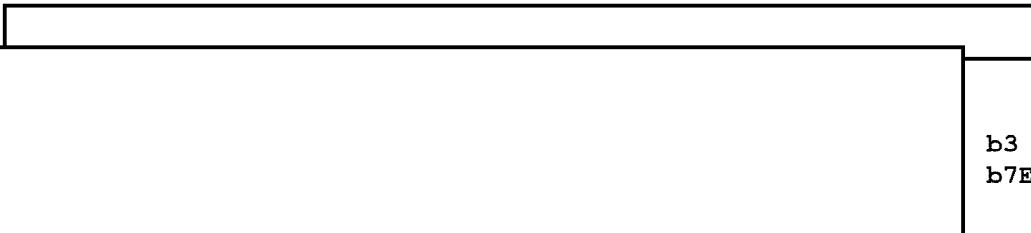
1. An inventory and physical description of the property.
2. Establish the ownership of each item of property.
3. Determine whether any of the property had any evidentiary value in connection with the Watergate investigation or any other violation of law.
4. Determine the intention of the transferor and that of the transferee in connection with the transfer of the property.
5. Determine whether there was any conspiratorial agreement in connection with the transfer and identify the conspirators.
6. Determine whether any copies of the property or any portions thereof were made; the current location of any such copies which may exist; whether any notes or other summaries of the contents of the property were made; the current location of any such notes or summaries or copies thereof which exist.
7. Determine details as to the disposition of the property following receipt by Mr. Gray.
8. Identify and interview all witnesses to the transfer, any agreement, any copying, summarizing, and disposition of the property. At a minimum those interviewed should include Dean, Gray, Ehrlichman, and Hunt.
9. Examine the testimony of the confirmation hearings concerning Mr. Gray's nomination for any indication of inconsistent testimony which might constitute perjury.

A letter was addressed to Mr. Cox on June 11, 1973, alerting him as to our request and pointing out that Assistant U. S. Attorney Earl Silbert had advised WFO Agents the Grand Jury inquiry re Gray and others in the alleged destruction of material had been completed and all leads emanating from these proceedings have been completed.

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ALLEGATION:

The Evening Star of 6/4/73, page A-10, in an article captioned, "Excerpts from CIA Watergate Memos," disclosed Lieutenant General Vernon A. Walters, Deputy Director, CIA, on 7/28/72 met with Gray at 11:00 AM for a meeting, the purpose of which was to clarify inquiries re "Cleo." Walters stated "Cleo" was Mr. Cleo (blank) an electronics engineer who was in contact with Mr. Hunt during August, 1971, and furnished Gray with a short unsigned memorandum. *AC* *U*

FACTS: 

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ALLEGATION:

Since the outset of the Watergate investigation, numerous public allegations have appeared suggesting the possibility that this investigation was impeded by instructions of Mr. Gray.

FACTS: Review of our files discloses investigation of the Watergate case was not impeded by any specific or implied instructions written by Gray or the Department of Justice. Certain actions of Gray may possibly be viewed as having impeded our investigation. Specifically, his decision to allow John Dean to sit in on interviews with all White House personnel may have had a deleterious effect on investigation of White House personnel. The presence of counsel during interviews is a right that may be required or waived by the interviewee. Obviously from an investigator's standpoint, having Dean present at interviews may well have had the effect of limiting pertinent information furnished to our Agents during the course of the interview. Although eventually all leads which WFO desired to be covered were handled with exception of an interview of a known CIA employee, delays were encountered in conducting pertinent interviews. The exact reasons for these delays are not known. Examples: WFO teletype 6/19/72 requested authority to interview Charles W. Colson. A memorandum was prepared during the afternoon of 6/19/72 (Monday) recommending Bureau liaison handle this interview but this was not approved until the morning of 6/22/72

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(U) (Thursday). [By teletype 6/28/72 WFO requested the Bureau to instruct Legat, London, to interview Kathleen Chenow, former secretary to David Young, then in England.] Apparently at Gray's instructions this lead was not immediately covered. The background facts are that by teletype 6/26/72 from WFO to the Bureau and Alexandria a lead was set out to interview Chenow in Alexandria based upon results of investigation and a telephone number in subject Martinez' address book was connected with Chenow. Alexandria determined Chenow was in England at a specific address and that she was the former secretary to David R. Young in the White House. [WFO, therefore, requested Bureau authorize Legat, London, interview her, but this lead was held in abeyance due to instructions from Mr. Felt to Mr. Bates on 6/28/72 because of security considerations.] Supervisor Charles E. Nuzum, General Investigative Division, recalls Gray advised him on an unrecalled date that Chenow was being brought back to the United States in a military aircraft in company with Fred Fielding of the White House Staff. We don't know when this was done or when she returned to Washington. When interviewed 7/3/72 in Dean's presence, she never questioned the reasons or circumstances why an arrangement was made by her former superior, David Young, to install a private phone in Room 16, Executive Office Building, for the exclusive use of subject Hunt, which phone was to be billed to Chenow's private residence in Alexandria. X (U)

(U) [Further, on 6/28/72 authority was granted Legat, Mexico City, to interview Manuel Ogarrio concerning the \$89,000 in Mexican bank drafts which had been located through a review of subject Barker's bank account in Miami. A coded cablegram was sent to Legat during the evening of 6/28/72 instructing the interview be conducted. Acting on instructions in a memorandum from Mr. Felt to Mr. Bates, 6/29/72, Gray's instructions were implemented that Ogarrio and Kenneth H. Dahlberg not be interviewed at that time due to national security considerations. Clearance for the Ogarrio interview was later received and he was interviewed in Mexico City on 7/6/72.] Dahlberg was subsequently interviewed by the Minneapolis Office on 7/6/72 based upon a memorandum Bates to Bolz 7/6/72 which confirmed oral instructions received from Gray. X (U)

In considering possible impediments to obtaining the full facts of the Watergate case the furnishing of numerous FBI reports and other communications by Gray to Dean must be considered. The facts concerning this development became known for the first time when Gray announced it during a 2/5/73 meeting attended by Felt, Assistant Director Robert E. Gebhardt, SAC John J. McDermott (WFO), Supervisors Nuzum and N. S. Irwin, as well as David Kinley of Gray's staff. Up to this time no one outside of Gray's staff had any knowledge of what had transpired and there are no written memoranda concerning this development. It is true

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there is no evidence in the files indicating this action by Gray impeded our investigation from an investigator's standpoint. Access by Dean to our investigation would logically indicate to him what information had been developed and which would enable him to work out strategy to cover up the case. Likewise, the destruction by Gray of documents apparently furnished him from Hunt's safe would have impeded the investigation although this cannot be stated positively since we do not know what specific material he destroyed, if any.

During Gray's confirmation hearings the following Agents were telephonically quizzed on 3/2/73 by Assistant Director Gebhardt with Inspector R. E. Gallagher listening in as to whether there were any leads FBI Agents wished to follow and were not permitted to do so. In all instances, the answer was an unequivocal no with the exception of WFO Supervisor Ruhl who referred to the delay in interviewing Manuel Ogarrio and Kenneth Dahlberg. The Agents contacted were Angelo Lano, case Agent; Supervisor John Ruhl, case Supervisor; former Section Chief Charles Bolz, Accounting and Fraud Section; Supervisor Charles Nuzum, Accounting and Fraud Section; SAC Charles Bates, former Assistant Director at the time of the case; SAC Robert Kunkel, former SAC, WFO; Supervisor Robert Wilson, Miami Office case Agent; SA Guilfoyle, Miami Office case Agent; SAC McDermott, WFO. Contact with Messrs. McDermott, Ruhl, Lano and Nuzum on 6/22/73 indicate their responses to date remain the same as their answers as of 3/2/73. X (U)

The Office of Legal Counsel has prepared an analysis determining if there was a violation of law, Executive Order, or Departmental regulation in Gray's offer or actual delivery of FBI files and memoranda to members of Congress. It is noted during Gray's confirmation hearings that he offered the Judiciary Committee "....any member of the U. S. Senate who wishes to examine the investigative file of the Federal Bureau of Investigation in this matter may do so. . . ." Office of Legal Counsel's opinion is as follows:

"The disclosure of the FBI investigative files to the Senate Committee by former Acting Director Gray was an action that would have been controlled by two Orders from the Department. Department Order 3464, Supplement No. 4 (revised), signed by the Attorney General on January 13, 1953, and currently in force, provides that all official files in the Department of Justice shall be regarded as of a confidential nature and the content thereof shall be disclosed only in the performance of official duties. The Order further provides that except upon specific authorization of the Attorney General, no officer or employee shall furnish to any person outside the Department of Justice any information obtained from the Federal Bureau of Investigation.

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ALLEGATION:

D.C.
The New York Post issue of 3/13/73, page 1, contains an article which indicates that on 3/12/73 the Senate Judiciary Committee received an affidavit prepared by Judith Hoback, an employee of the Committee to Reelect the President (CRP) that within 48 hours of her private interview with the FBI she was confronted by Kenneth Wells Parkinson, CRP attorney, concerning her FBI interview.

D.C.
FACTS: Our files show Hoback was interviewed on 9 separate occasions either in person or telephonically and the only one on a strictly confidential basis was an interview conducted solely by WFO Agents on 7/18/72. Results of this interview were furnished FBIHQ by WFO teletype 7/19/72 which was initialed as having been read by Gray on 7/20/72 at 10:12 PM. During this 7/18/72 interview Hoback, secretary and bookkeeper of Hugh W. Sloan, Jr., confidentially advised our Agents of certain financial disbursements authorized by Sloan during the period February through April, 1972, to G. Gordon Liddy and others. While she was subsequently reinterviewed on other occasions, according to her affidavit of 3/10/73 made available to the Senate Judiciary Committee, Hoback referred to the above 7/18/72 interview and further advises she was contacted "about one week later" by Agents and Assistant U. S. Attorney Earl Silbert. Her affidavit continues that within 48 hours of this last interview she was contacted by Parkinson and others regarding her FBI interview. The facts are she was interviewed by Assistant U. S. Attorney Silbert and a member of his staff during the evening of 7/25/72 with Bureau Agents present but since it was Silbert's interview, no FD -302 of this contact was prepared. WFO daily summary teletype of 7/26/72 reporting this interview was seen by Gray on 7/27/72. Our files show no record of actually when she was confronted by Parkinson as she never mentioned this alleged confrontation to Agents in later interviews. She continued to be cooperative in later contacts and the Bureau continued to accept information volunteered by her.

The files contain no data as to how Parkinson allegedly knew of Hoback's confidential contact with the FBI. A possibility has been suggested that it could have been mere suspicion on his part or the result of talk around Hoback's office in view of the large number of interviews conducted involving this individual.

ALLEGATION:

The 3/26/73 issue of Time Magazine, page 25, in discussing Donald Segretti, points out "Later when three FBI Agents insisted on pushing the Watergate investigation to question White House involvement, two were transferred by Gray to bureaus outside Washington and one retired rather than be transferred."